

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 931 of 1999

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

VIJAYBHAI NABUBHAI VARMA

Versus

DISTRICT MAGISTRATE

Appearance:

HL PATEL ADVOCATES for Petitioner

MS PUNANI AGP for Respondent No. 1, 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 13/07/1999

ORAL JUDGEMENT

Heard the learned advocates for the respective parties.

The petitioner herein challenges the order of preventive detention dated 21st September, 1998, made by the District Magistrate, Bharuch, under the powers

conferred upon him under sub-section (1) of section 3 of the Gujarat Prevention of Anti Social Activities Act, 1985 (hereinafter referred to as 'the Act').

It is alleged that the petitioner has been indulging into bootlegging activities and has been storing and selling the country liquor as well as foreign liquor. The petitioner is held to be a 'bootlegger' within the meaning of section 2 (b) of the Act, and his activities are prejudicial to the maintenance of law and order.

The only ground on which the order of detention is challenged is that the documents relied upon by the Detaining Authority and supplied to the petitioner along with the grounds of detention were not legible and thereby the petitioner's right to make effective representation against the order of detention was seriously prejudiced. In spite of the demand raised under the representation made on 20th November, 1998, legible copies of the said documents were not furnished to the petitioner. The supporting material supplied to the petitioner have been perused by the learned AGP Ms. Punani. She concedes that two of the documents at pages 29 and 57 are illegible. It is not disputed that the said documents have been considered by the Detaining Authority while recording his subjective satisfaction. It was, therefore, imperative for the Detaining Authority to supply legible copies of the said documents so as to facilitate the petitioner to make an effective representation against the impugned order. In absence of the legible copies of the documents, the petitioner's right to make an effective representation can be said to be seriously prejudiced, which should vitiate the action taken by the Detaining Authority.

Petition is, therefore, allowed. The impugned order dated 21st September, 1998 (Annexure-A to the petition) is quashed and set aside. Rule is made absolute. The petitioner, unless is required to be detained in some other case, be released forthwith.

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